

Kansas Water Quality Certification
Section 404 Nationwide Permits
Kansas Department of Health and Environment

Drafted February 10, 1997, 1st Revision: April 24, 1997, final revision: July 31, 1997;
1999 NWP final revision, May 31, 2000

Authority

This certification is prepared pursuant to Clean Water Act Section 401 and Kansas Administrative Regulation 28-16-28f(c)(1).

Certification

All activities authorized by Corps of Engineers Nationwide Permits published December 13, 1996, and March 9, 2000, are not expected to result in violations of Kansas Water Quality Standards found at Kansas Administrative Regulations 28-16-28b through 28f, provided the person conducting the activity authorized by the nationwide permit adheres to the following certification conditions.

I. GENERAL CONDITIONS

1. **Project Water Quality Protection Plan** Any person wishing to use a Section 404 Nationwide General Permit shall prepare and follow a written project water quality protection plan (PWQPP.) The (PWQPP) shall identify components of the permitted activity (i.e. solid waste handling, fuel storage and leaks, sediment from construction etc.) which may or will result in the discharge of pollutants to waters of the state. For each component which may discharge pollutants to waters of the state, the plan shall set out the physical, structural and management measures to be implemented to prevent or minimize the discharge of pollutants to waters of the state.

The permittee is required to submit the PWQPP to KDHE only if the project impacts Outstanding Natural Resource, Exceptional State or Special Aquatic Life Use Waters per condition #2 below.

2. **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters:** In the event the permitted activity occurs in or within one half (½) mile of an Outstanding National Resource Water, defined pursuant to **K.A.R. 28-16-28b(mm)** and **K.A.R. 28-16-28c(a)B(3)**, an Exceptional State Water pursuant to **K.A.R. 28-16-28b (w)** and **K.A.R. 28-16-28c(a)B(2)**, or a Special Aquatic Life Support Use Water designated pursuant to **K.A.R. 28-16-28d(2)(A)**, **the person responsible for initiating the activity shall submit a copy of the water quality protection plan to the Nonpoint Source Section - Kansas Department of Health and Environment.** A list of **Outstanding National Resource Waters, Exceptional State and Special Aquatic Life Support Use Waters** (Attachment 1 and includes map and county abbreviations) subject to this provision are listed in the Corps of Engineers Regional Conditions.

The permittee should also be aware of the following Kansas water quality protection regulations associated with special waters:

K.A.R. 28-16-28c(a)B(2)-“Wherever state surface waters constitute exceptional state waters, discharges shall be allowed only if existing uses and existing water quality are maintained and protected.”

K.A.R. 28-16-28c(a)B(3)-“Wherever state surface waters constitute an outstanding national resource water existing uses and existing water quality shall be maintained and protected. New or expanded discharges shall not be allowed into outstanding national resource waters.” (Refers mainly to industrial or municipal wastewater.)

3. **Solid Waste Disposal** All solid waste materials produced during the execution of the project shall be disposed in accordance with the provisions of Kansas Solid Waste Management Statutes and regulations and applicable local regulations. Direct inquiries to KDHE Bureau of Waste Management 785/296-1612.
4. **Minimize removal or disturbance of riparian areas** (areas adjacent to water bodies).
5. **Discharge of Floatable Materials** The person responsible for executing the permitted activity shall assure good house keeping is practiced at the site to minimize the discharge of floatable materials such as personal refuse including food containers, packing materials, and other litter. Appropriate measures shall be taken to capture and/or recover any floatable materials discharged to waters of the state originating with the permitted project.
6. **Fuel, Chemical and Materials Storage** Fuel, chemical and other materials stored at the project site shall be stored in a manner that minimizes the discharge of product to waters of the state. Spill minimization and prevention measures and procedures shall be documented in the Water Quality Protection Plan.
7. **Spill Response and Reporting:**
 - 1.) **Spill response and cleanup:** In the event a spill of fuel, chemical or other water quality degrading materials stored or transported on the site occurs, the permittee shall or with the assistance of professional response personnel, expeditiously control or contain the spill and initiate clean up procedures. The applicant shall immediately contact 911 or local Sheriff's Office (See attachment 2.) and the appropriate Kansas Department of Health and Environment District Office (see map Attachment 3.) Spill response and cleanup shall be documented in the project water quality protection plan (PWQPP). KDHE encourages the permittee to establish and post a sign that includes phone contact numbers for the appropriate local emergency response unit, KDHE district office, and the project manager/owner.
 - 2.) **Reporting:** The Kansas Department of Health and Environment shall be notified of all fuel spills or unauthorized discharge of pollutants immediately. Contact KDHE at, 785/296-1679, anytime for spill reporting requirements.

8. **Drinking Water Intakes:** The person responsible for the permitted activity shall avoid adverse impacts on public water supplies. Whenever permitted activities occur within one mile upstream of a public drinking water supply - surface water intake, the applicant shall contact the official in charge of the public drinking water supply to apprise the drinking water supply official of the permitted activity. The person responsible for the permitted activity shall consider the suggestions and recommendations of the public water supply official when preparing the PWQPP.
9. **Treated Wastewater Effluent Mixing Zones:** As a general guideline any Section 404 activity within one-half (1/2) mile upstream or one-half (1/2) mile downstream of a permitted wastewater effluent discharge may impact the effluent mixing zone. The person responsible for the permitted activity shall determine if the project will adversely impact the wastewater effluent mixing zones and take appropriate measures to avoid altering or changing the mixing zone. This may include but is not limited to:
 - 1) The construction or placement of a recreation oriented facility or structure (i.e. boat ramp, walkway) which may require modification of the beneficial use designation to accommodate contact or non-contact recreation, thereby increasing the effluent limitations for the permit.
 - 2) Any activity which may alter or remove the stream channel geometry or natural oxygenation abilities of the stream such as bridge construction, channelization, stream channel substrate modification etc.

The person responsible for the permitted Section 404 activity shall advise and describe to the waste water discharge permittee and KDHE any potential mixing zone impacts and the measures the person responsible for the Section 404 activity will take to minimize adverse impacts on the mixing zone. Inquiries should be directed to KDHE Bureau of Water 785/296-5527.
10. **Closure of Project Site** Upon completion of the project, disturbed areas including equipment staging areas shall be expeditiously stabilized with temporary and permanent vegetative or other nonpolluting cover materials. The person responsible for the permitted activity shall monitor and maintain cover materials until such time as the site is stabilized. Project closure procedures shall be documented in the Project Water Quality Protection Plan per condition #1.
11. **Kansas Water Pollution Control General Permit for Stormwater Runoff from Construction Activities.** This certification does not relieve the applicant of the responsibility to determine if the project is subject to the requirements of **General NPDES Permit S-MCST-9601-1** to secure such permit as necessary. Questions and inquiries may be directed to:

Kansas Department of Health and Environment, Bureau of Water -
Industrial Program Section, Building 283, Forbes Field, Topeka,
Kansas 66620 - Phone 785/296-5547 FAX: 785/296-5509.

12. Hydrostatic tests for pipeline activities shall be approved prior to discharge of water used for the test. Please contact Kansas Department of Health and Environment, Bureau of Water - Industrial Program Section, Building 283, Forbes Field, Topeka, Kansas 66620 - Phone 785/296-5553 FAX :785/296-5509, to inquire.

13. All Section 404 activities within the borders of Indian owned and operated lands (see Attachment 1 map) are not covered by this certification. Individuals proposing projects which impact those waters should contact the appropriate individual at the following numbers:

Prairie Band Potawatomi Indians, Planning Department, 785/946-2946

Kickapoo Tribe in Kansas, Environmental Office, 785/486-2601

Iowa of Tribe of Kansas and Nebraska, 785/595-3258

Sac and Fox Tribe of Missouri, 785/742-7471

Environmental Protection Agency Region VII Indian Lands Contact, 913/551-7539

SPECIAL CONDITIONS FOR SPECIFIC NATIONWIDE PERMITS

1. Nationwide Permit #7. Outfall Structures and Maintenance (construction)

Controls shall be in place to stabilize all areas of the bed and bank around adjacent to the outfall structure and associated intake structures that may be affected by outfall or stream flows, respectively.

Enforcement and Penalties

This certification does not relieve the applicant of the responsibility for any discharge to waters of the state. The Kansas Department of Health and Environment retains the option of revoking this certification any time an inappropriate discharge may occur. As provided for by K.S.A. 65-171(f), failure to comply with the conditions of this certification may subject the responsible party to fines of \$10,000 per violation with each day the violation occurs constituting a separate violation.

Variance

If the applicant believes the conditions of this certification will result in impairment of important social and economic development, the applicant is advised of the variance provisions of K.A.R. 28-16-28f(e).

For Additional Information

For a copy of the Kansas Surface Water Quality Standards, Guidelines for Preparing a Water Quality Protection Plan for Dredge, Fill, Stream Channel Modification and Construction Activities, and lists of *Outstanding National Resource Waters*, *Exceptional State Waters* and *Special Aquatic Life Use Support Waters*, please contact Kansas Department of Health and Environment Bureau of Water Nonpoint Source Section at 785/296-4195 or FAX 785/296-5509. This information can also be obtained by written communication directed to :

Kansas Department of Health and Environment- Bureau of Water - Nonpoint Source Section, Building 283, Forbes Field, Topeka, Kansas 66620. Attention: 404 NWP 401 Certification.

Attachment 2

1. COUNTIES APPROVING 911 for SPILL RESPONSE

Brown
Butler
Douglas
Cheyenne
Ellis
Ellsworth
Geary
Jackson
Johnson
Lincoln
Linn
McPherson
Ottawa
Rawlins
Rooks
Russell
Rice
Reno
Saline
Stanton

2. COUNTIES WHERE SPILLS ARE REPORTED TO SHERIFF'S OFFICE

Finney- 316/272-3700
Grant- 316-356-3500
Marion- 316/382-2144, 316/382-2145
Sedgwick- 316/383-7546
Wichita- (316) 375-2723

3. ALL COUNTIES NOT LISTED CALL YOUR LOCAL SHERIFF'S OFFICE.